

REMARKS

The present application was filed on June 6, 2000 with claims 1-17. Claims 1-17 are currently pending in the application. Claims 1, 16 and 17 are the independent claims.

In the Office Action, the Examiner rejected claims 1-5, 7 and 15-17 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,532,088 (hereinafter “Dantu”), rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Dantu in view of U.S. Patent No. 6,256,295 (hereinafter “Callon”), rejected claims 8-13 under §103(a) as being unpatentable over Dantu in view of U.S. Patent Application Publication No. 2001/0003833 (hereinafter “Tomizawa”), and rejected claim 14 under §103(a) as being unpatentable over Dantu and Tomizawa in view of U.S. Patent Application Publication No. 2001/0026384 (hereinafter “Sakano”).

In this response, Applicants traverse the §102(e) and §103(a) rejections, and amend claims 1, 2, 16 and 17.

Applicants respectfully request reconsideration of the present application in view of the following remarks.

Applicants initially note with regard to the §102(e) rejection that the Manual of Patent Examining Procedure (MPEP), Eight Edition, August 2001, §2131, specifies that a given claim is anticipated “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference,” citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the “identical invention . . . in as complete detail as is contained in the . . . claim,” citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). For the reasons identified below, Applicants submit that the Examiner has failed to establish anticipation of at least independent claims 1, 16 and 17 by the Dantu reference.

In their previous response, Applicants noted that independent claim 1 as originally filed called for routing units of traffic on corresponding sets of trunks connected between the first and second nodes such that the traffic is balanced between disjoint paths.

The Dantu reference discloses a fiber optic ring network comprising rings 108 and 110 that “conduct traffic in circularly opposite directions to provide working and protection routing to every node on the fiber optic ring network” (Dantu, FIG. 3 and column 8, lines 8-19). The claimed

balancing of traffic between disjoint paths is not disclosed in Dantu. Instead, Dantu is more properly viewed as a type of conventional arrangement similar to that described by Applicants in the background portion of their specification, at page 2, lines 9-13:

One type of approach to providing failure protection in an optical network formed of these and other elements is to provide complete redundancy, such that the network includes a dedicated backup or secondary connection for each primary connection of the network. When a link, span or node of the primary connection fails, traffic may then be switched onto the corresponding elements of the secondary connection.

The disclosure in column 9, lines 15-20, relied upon by the Examiner in formulating the rejection of claim 1, provides a further indication that Dantu is a conventional arrangement of the type described above. That is, Dantu simply provides a dedicated backup or secondary connection for each primary connection of the network, such that when a link, span or node of the primary connection fails, traffic may then be switched onto the corresponding elements of the secondary connection. This is not what is claimed. As indicated above, claim 1 as originally filed requires that traffic is balanced between disjoint paths. There is no such balancing of traffic in the Dantu arrangements.

Applicants had previously amended independent claim 1 to specify that a given one of the units of traffic is routed such that at least first and second portions of the given unit of traffic are routed on respective first and second trunks of a corresponding set of trunks, the traffic in the given unit of traffic thereby being balanced between at least a pair of disjoint paths comprising the first and second trunks. Again, regardless of whether or not Dantu teaches disjoint paths *per se*, Dantu clearly fails to teach or suggest the claimed balancing of traffic in a given unit of traffic between at least a pair of disjoint paths.

Since Dantu fails to meet at least the limitations of claim 1 regarding disjoint path routing, claim 1 is not anticipated by Dantu.

Independent claims 16 and 17 each include limitations similar to those of claim 1 as described above, and are therefore believed allowable over Dantu for substantially the same reasons that claim 1 is believed allowable over Dantu.

Dependent claims 2-15 are believed allowable at least by virtue of their dependence from independent claim 1.

Applicants further submit that the Callon, Tomizawa and Sakano references fail to supplement the fundamental deficiency of Dantu as applied to claim 1. The §103(a) rejections are therefore believed to be improper and should be withdrawn.

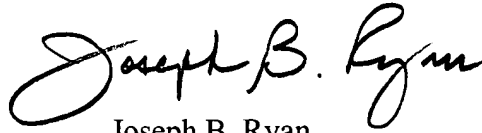
Notwithstanding the foregoing traversal, Applicants have again amended independent claims 1, 16 and 17 to further clarify the disjoint path routing limitations of these claims. Each of these claims as amended specifies that the given unit of traffic comprises a unit of traffic to be transmitted in a direction from the first node to the second node, and that the given unit of traffic is separated into at least first and second portions of substantially equally size. Support for the amendment can be found in the specification, for example, in FIGS. 3, 4 and 5 and the corresponding text. This amendment further clarifies the above-noted claim limitation requiring that the traffic in the given unit of traffic be balanced between at least a pair of disjoint paths comprising the first and second trunks.

Dependent claim 2 has been amended to provide consistency with the amendments to independent claim 1.

In view of the above traversal, Applicants submit that the present claim amendments are made solely for purposes of expediting prosecution of the application, and not for any reasons relating to patentability of the claims relative to Dantu or the other art of record.

Accordingly, Applicants respectfully submit that claims 1-17 as presented herein are in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, reading "Joseph B. Ryan". The signature is fluid and cursive, with the first name "Joseph" and last name "Ryan" clearly legible.

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